

LEGISLATIVE BILL 324

Approved by the Governor April 28, 1999

Introduced by Jensen, 20

AN ACT relating to health care; to amend sections 71-7605, 71-7608, 71-7612, and 71-7614, Revised Statutes Supplement, 1998; to define terms; to change provisions relating to investment income of certain funds; to change provisions relating to the Excellence in Health Care Council; to create a fund; to provide and change powers and duties; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 71-7605, Revised Statutes Supplement, 1998, is amended to read:

71-7605. Sections 71-7605 to 71-7614 and section 2 of this act shall be known and may be cited as the Nebraska Health Care Trust Fund Act.

Sec. 2. For purposes of the Nebraska Health Care Trust Fund Act, investment income means the net appreciation, realized and unrealized, in the fair value of the assets over the aggregate donations to the fund.

Section 3. Section 71-7608, Revised Statutes Supplement, 1998, is amended to read:

71-7608. The Nebraska Tobacco Settlement Trust Fund is created. The fund shall include revenue received from a settlement or judgment awarded to the State of Nebraska as a result of tobacco-related litigation for compensation for the costs of treating smoking-related illnesses. The Department of Health and Human Services Finance and Support shall remit such revenue to the State Treasurer for credit to the fund. Subject to the terms and conditions of the settlement or judgment, the ~~interest~~ investment income on the revenue shall be transferred to the Excellence in Health Care Trust Fund to be used for grants or loan guarantees as provided in section 71-7614. Any money in the Nebraska Tobacco Settlement Trust Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Section 4. Section 71-7612, Revised Statutes Supplement, 1998, is amended to read:

71-7612. (1) The Department of Health and Human Services Finance and Support shall administer the distribution of the money in the Nebraska Health Care Trust Fund as provided in this section.

(2) The department shall:

(a) Direct the State Treasurer to transfer the first forty million dollars placed in the fund, plus ~~interest~~ the investment income accruing prior to the transfer, to the Nursing Facility Conversion Cash Fund;

(b) Direct the State Treasurer to transfer the next twenty-five million dollars placed in the Nebraska Health Care Trust Fund, plus ~~interest~~ the investment income accruing prior to the transfer, to the Children's Health Insurance Cash Fund; and

(c) Beginning January 15, 1999, direct the State Treasurer to transfer only the ~~interest~~ investment income accruing on the money in the Nebraska Health Care Trust Fund in excess of the first sixty-five million dollars placed in the fund to the Excellence in Health Care Trust Fund.

(3) If there is an unanticipated reduction in federal medicaid funds pursuant to the generation of revenue from governmental nursing facilities as described in section 71-7607, the department may use money placed in the Nebraska Health Care Trust Fund for medicaid expenses where the unanticipated reduction occurred.

Section 5. Section 71-7614, Revised Statutes Supplement, 1998, is amended to read:

71-7614. (1) Beginning January 15, 1999, the Excellence in Health Care Trust Fund shall be used for (a) awarding grants or making loan guarantees as described in section 71-7613 for conversion of nursing facilities to assisted-living facilities or other alternatives to nursing facility care, (b) awarding grants for public health services which focus on health education, preventive health measures, and environmental health, assessment, and assurance, including services for reservation or service areas of federally recognized Native American tribes in Nebraska and organizations that focus on the health of minority groups, (c) awarding grants for activities related to the design, maintenance, or enhancement of the statewide trauma system, support of emergency medical services programs, and support for

the emergency medical services programs for children, (d) awarding grants for conversion of hospitals in rural areas of the state to limited-service rural hospitals, (e) awarding grants for education, recruitment, and retention of primary care professionals, behavioral health professionals, and nurses for medically underserved areas, (f) awarding grants for health infrastructure development which is supportive of telemedicine capability, including, but not limited to, high-speed data and medical information transmission, (g) awarding grants for the development and expansion of community-based aging services designed to promote the independent living status of and delay institutional care for elderly persons, including, but not limited to, personal care, respite care, homemaker care, and chore and transportation services, and (h) the state's matching share for children's health insurance under Title XXI of the federal Social Security Act in excess of the funds distributed under subdivision (2)(b) of section 71-7612. No more than one-half of the money in the Excellence in Health Care Trust Fund may be used for conversion projects under subdivision (a) of this subsection. No funds shall be used under this section for abortion, abortion counseling, referral for abortion, or school-based health clinics.

(2) ~~The Governor shall establish the Excellence in Health Care Council within the Department of Health and Human Services Finance and Support is created.~~ The Director of Finance and Support or his or her designee shall be an ex officio member of the council. The Governor shall appoint council shall consist of a chairperson and five additional members to the council appointed by the Governor with the approval of a majority of the Legislature. The chairperson and additional members shall be appointed for three-year terms, except that of the initial members, two shall be appointed for one-year terms and two for two-year terms. Any member appointed prior to the effective date of this act shall be subject to the approval of a majority of the Legislature. The membership shall include at least one consumer and one health care provider. Any vacancy shall be filled in the same manner as the original appointment for the unexpired term. The Department of Health and Human Services Finance and Support shall provide staff support for the council. The Department of Health and Human Services and the Department of Health and Human Services Regulation and Licensure shall also assist the Department of Health and Human Services Finance and Support and the council as may be necessary. Members of the council shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(3) The council, with the approval of the Director of Finance and Support, shall award grants or make loan guarantees under subdivision (1)(a) of this section and shall award grants under subdivisions (1)(b) through (g) of this section to a person or entity for expenditures, including, but not limited to, startup and training expenses and operating losses, which will improve access to or delivery of health care services to medically underserved individuals or in medically underserved areas or which will help contain or reduce the cost or improve the quality of health care services. The Director of Finance and Support, with the advice of the Nursing Home Advisory Council and the Policy Cabinet created in section 81-3009, shall use the procedures and criteria of section 71-7613 to make recommendations for grants to be awarded or loan guarantees to be made by the Excellence in Health Care Council under subdivision (1)(a) of this section.

(4) Eligible activities under subdivision (1)(b) of this section shall include, but not be limited to, (a) projects to implement the Community Health Care Act, (b) the hiring of school nurses by educational service units, school districts, public health entities, or partnerships between schools and public health entities in order to identify children for medicaid eligibility and to provide immunizations and other public health services, (c) health education and activities that focus on prenatal care, proper diet, physical activity, the reduction of teen and other unintended pregnancies, the prevention of disease, and other public health problems, (d) staffing needs for public health services or education, including recruitment and training, (e) pregnancy testing, (f) tests and screenings for blood pressure, cholesterol, sexually transmitted diseases, cervical cancer, breast cancer, communicable diseases, and other potential public health problems, (g) matching funds for state and federal health programs designed to address public health needs, (h) laboratory equipment to enable the Department of Health and Human Services Regulation and Licensure to carry out its powers and duties relating to laboratory services, (i) public health environmental services, and (j) education, research, and outreach programs that specifically address the cause and prevention of smoking-related diseases and smoking prevention and cessation.

(5) This section does not create an entitlement to any funds available for grants or loan guarantees under this section, and the council

may award grants or make loan guarantees to the extent funds are available and, within its discretion, to the extent such applications are approved.

(6) The department shall:

(a) In consultation with the Excellence in Health Care Council, develop criteria for the awarding of grants from the Excellence in Health Care Trust Fund pursuant to subdivisions (1)(b) through (g) of this section;

(b) Have the power to approve or disapprove decisions by the council regarding the selection of projects to be funded and the distribution and duration of project funding;

(c) In consultation with the council, establish standards, formats, procedures, and timelines for the successful implementation of approved projects;

(d) In consultation with the council, assist grant recipients in determining the effectiveness of the project and measure the accomplishment of the grant objectives; and

(e) Provide annual reports to the Governor and the Legislature concerning the projects. Each report shall include the number of applicants and approved applicants, an overview of the various projects, and detailed reports of the cost of each project.

(7) The department shall, in consultation with the council, adopt and promulgate rules and regulations establishing criteria, standards, and procedures regarding the selection and administration of projects funded from the fund pursuant to subdivisions (1)(b) through (g) of this section. Recipients of such grants shall be required to provide, upon request, such data relating to the funded projects as the department deems necessary.

Sec. 6. (1) For purposes of this section, Master Settlement Agreement means the settlement agreement (and related documents) entered into on November 23, 1998, by the state and leading United States tobacco manufacturers.

(2) The Tobacco Enforcement Fund is created. Any money received by the state from the State Enforcement Fund established as part of the Master Settlement Agreement shall be deposited into the Tobacco Enforcement Fund. The fund shall be used by the Attorney General to enforce the Master Settlement Agreement and to investigate and litigate potential violations of state tobacco laws. The Attorney General may contract with the Nebraska State Patrol and local law enforcement agencies to assist with the investigation. The contractual costs may be paid from the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 7. Original sections 71-7605, 71-7608, 71-7612, and 71-7614, Revised Statutes Supplement, 1998, are repealed.

Sec. 8. Since an emergency exists, this act takes effect when passed and approved according to law.